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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,924	12/05/2001	James M. McArdle	AUS920010930US1	9803

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EXAMINER	
ANYA, CHARLES E	

ART UNIT	PAPER NUMBER
2194	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/004,924	MCARDLE, JAMES M.	
	Examiner	Art Unit	
	Charles E. Anya	2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3/ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 April 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-20 are pending in this application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1,5-9,11,12 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,805,884 to Sitbon et al. in view of U.S. Pub. No. 2003/00051150 A1 to Corbin et al.

4. As to claim 1, Sitbon teaches a method of providing command execution status of a command script to an application program (Col. 2 Ln. 60 - 67, Col. 3 Ln. 1 - 3, 37 - 54), comprising: creating a return code file ("...temporary files..." Col. 6 Ln. 29 - 40) and storing a return code of at least one command of a command script in the return code file ("...temporary files..." Col. 6 Ln. 29 - 40).

5. Sitbon is silent with reference to accessing the stored return code from an application program.

6. Corbin teaches accessing the stored return code from an application program (IConnectMachine 110 (data structure) page 7 paragraphs 0056/0059, page 8 paragraph 0061).

7. It would have been obvious to one of ordinary skill in the ad at the time the invention was made to combine the teachings of Corbin and Sitbon because the teaching of Corbin would improve the system of Sitbon by providing means for allowing one or more nodes to access the status information generated by the scripts in execution from over a network (Corbin page 4 paragraph 0035).

8. As to claim 5, Sitbon teaches the method of claim 1 further comprising prompting execution of the command script from the application program (Col. 4 Ln. 9 - 25).

9. As to claim 6, Sitbon teaches the method of claim 1 wherein the return code file comprises a file stored on a hard disk (Co1. 6 Ln. 29 - 33).

10. As to claim 7, although neither Sitbon nor Lebow teach the method of claim 1 wherein the return code file comprises a file stored on a RAM disk, the idea of storing files in a RAM disk is well known in that art. It would be obvious to one ordinary skill in the art at time the invention was made to store the return code file in a Ram disk in order to access memory faster and fooling the operating system into believing that an additional disk drive exists (Computer Dictionary 7 th Ed Microsoft Press page 330, column 1 paragraph 2).

11. As to claim. 8, Corbin teaches the method of claim 1 wherein the return code file comprises a file stored in any location recognized as accessible by a command processor (page 4 paragraph 0035).

12. As to claims 9 and 12, see the rejection of claim 1 above.

13. As to claims 11 and 16, see the rejection of claim 5 above.

14. As to claims 17-19, see the rejection of claims 6-8 respectively.

15. **Claims 2 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,805,884 to Sitbon et al. in view of U.S. Pub. No. 2003/00051150 A1 to Corbin et al. as applied to claim 1 above, and further in view of U.S. Pat. No. 6,167,534 to Straahof et al.**

16. As to claim 2, Sitbon is silent with reference to the method of claim 1, wherein the return code file is created by the command script.

17. Straahof teaches the method of claim 1, wherein the return code file is created by the command script (Col. 14 Ln. 11 – 12).

18. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Straahof, Corbin and Sitbon because

the teaching of Straahof would improve the system of Corbin and Sitbon by providing a method for producing scripts for load testing a software application in a client/server environment (Straahof Col. 1 Ln. 62 – 64).

19. As to claim 13, see the rejection of claim 2 above.

20. **Claims 4,15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,805,884 to Sitbon et al. in view of U.S. Pub. No. 2003/00051150 A1 to Corbin et al. as applied to claim 1 above, and further in view of U.S. Pat. No. 6,526,524 B1 to Kelly.**

21. As to claim 4, Sitbon and Corbin are silent with reference to the method of claim 1, wherein the return code file is created by the application program.

22. Kelly does not explicitly teach to the method of claim 1, wherein the return code file is created by the application program, however Kelly does teach creating user error table in a user computer memory storage (Col. 6 Ln. 63 – 66).

23. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kelly, Corbin and Sitbon because the teaching of Kelly would improve the system of Corbin and Sitbon by providing a method for notifying a programmer of an application error while running an application developed by the programmer (Kelly Col. 1 Ln. 53 – 57).

24. As to claims 15 and 20, see the rejection of claim 4 above.

25. Claims 3,10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,805,884 to Sitbon et al. in view of U.S. Pub. No. 2003/00051150 A1 to Corbin et al. and further in view of U.S. Pat. No. 6,167,534 to Straahof et al. as applied to claim 2 above, and further in view of U.S. Pat. No. 6,745,383 B1 to Agarwal et al.

26. As to claim 3, Sitbon and Corbin are silent with reference to the method of claim 1, further comprising verifying the existence of the return code file, prior to accessing the stored return code.

27. Agarwal teaches the method of claim 2 further comprising verifying the existence of the return code file, prior to accessing the stored return code (Col. 2 Ln. 37 - 41).

28. It would have been obvious to one of ordinary skill in the ad at the time the invention was made to combine the teaching of Agarwal, Sitbon and Corbin because the teaching of Agarwal would improve the system of Sitbon and Corbin by promoting recovery of a program via early warning system to avoid system failure/crash (Agarwal Col. 1 Ln. 62 - 67, Col. 2 Ln. 1 - 4).

29. As to claims 10 and 14, see the rejection of claim 3 above.

Response to Arguments

30. Applicant's arguments with respect to claims 1-6 and 8-19 have been considered but are moot in view of the new ground(s) of rejection.

31. Applicant's arguments filed 4/5/05 (with reference to claim 7) have been fully considered but they are not persuasive.

Applicant argues in substance that (1) the Examiner's does not have any proof to justify or substantiate the "well known" statement.

As to point (1), the idea of using Ram disk to store data is not novel and secondly, the cited reference (Computer Dictionary 7th. Edition) is proof that using Ram disk to store data is well known.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Anya whose telephone number is (571) 272-3757. The examiner can normally be reached on M-F (8:30-6:00) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, An Meng-Ai can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Charles E Anya
Examiner
Art Unit 2194

cea.

SUE LAO
PRIMARY EXAMINER